

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA**

**Alexandria Division**

**COURTNEY GRAVES, *Pro Se***  
200 N Washington Street, Unit 320547  
Alexandria, VA 22320  
(571) 771-7818

Plaintiff-Appellant,

App. No. 23-1777  
Case No. 1:21-CV-1367

v.

**FOULGER-PRATT COMPANIES, LLC, *et al.***

Defendants-Appellees.

**PRO SE PLAINTIFF-APPELLANT'S RENEWAL MOTION  
TO EXTEND PERIOD FOR FILING AN APPEAL**

COMES NOW, Plaintiff-Appellant, Courtney Graves (hereinafter "Graves"), and hereby moves the District Court to renew the previously filed *Motion to Extend Period for Filing Appeal* for an Order as follows:

1. On March 30, 2023, the District Court dismissed the remaining parties and claims by granting Defendants-Appellees motions to dismiss. ECF No. 91.
2. On April 27, 2023, Graves tried to file her Rule 59(e) Motion for Reconsideration on the 28<sup>th</sup>-day deadline but did not arrive at the courthouse prior to closing due to traffic. ECF No. 92. at p. 20. The Clerk's drop box is located inside of the courthouse and marshals will not permit entry into the courthouse after closing to access the drop box even if you spoke to the Clerk. Graves faxed her Rule 59(e) Motion for Reconsideration since *pro se* litigants may not use the electronic filing system, which is conveniently available for opposing counsels to file and meet strict deadlines from anywhere and anytime prior to midnight. ECF No. 92 at p. 19. Graves emailed a courtesy copy to counsels. ECF No. 92 at p. 20.

3. On April 28, 2023, Graves returned to the courthouse to file a *Motion to Extend Period for Filing Appeal* and provided a copy of the Rule 59(e) *Motion for Reconsideration* with the Fax Transmission Sheet and email to opposing counsels. ECF No. 92.

4. On May 18, 2023, the District Court denied in part Graves' Rule 59(e) *Motion for Reconsideration* and denied as moot the *Motion to Extend Period for Filing an Appeal*. ECF No. 105. The District Court found an untimely filed Rule 59(e) motion because the District Court does not permit filing by fax, which the District Court explained was a notice located on the courthouse's website in a link called "General Filing Tips." *Id.* at p. 4.

5. On July 24, 2023, Plaintiff-Appellant filed a Notice of Appeal for the Order dated May 18, 2023,<sup>1</sup> which amended the Order dated March 30, 2023, to change the period for filing an appeal from 30 days to 60 days because a government agency is a party to the cause of action. ECF No. 106. Pursuant to the merger doctrine, amending the final judgment would create an appealable subsequent order with a new period for appeal. The 60-day period to appeal the new order dated May 18, 2023, was July 17, 2023.

6. On July 26, 2023, the United States Court of Appeals for the Fourth Circuit ("Appellate Court") issued an informal briefing schedule. ECF App. No. 2.

7. A *Motion to Dismiss* for lack of jurisdiction was filed by multiple Defendants-Appellees,<sup>2</sup> which the Appellate Court has not answered, and Graves will file a joint reply motion in response to all outstanding motions to dismiss. ECF App. Nos. 5, 21, 25, 29, 30.

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<sup>1</sup>Graves must first appeal the amended order that found an untimely-filed Rule 59(e) motion to overturn because the Appellate Court may only rule on a timely-filed Rule 59(e) motions, which permit a substantive review of the application of law.

<sup>22</sup> *Motion to Dismiss Appeal* filed by EPA on 8/3/23. ECF App. No. 5. *Motion to Dismiss Appeal* filed by CEI on 8/11/23. ECF App. No. 21. *Motion to Dismiss Appeal* filed by FP on 8/16/23. ECF App. No. 25. *Motion to Dismiss Appeal* filed by OK on 8/18/23. ECF App. No. 29. *Motion to Dismiss Appeal* filed by PEI on 8/18/23. ECF App. No. 30. *Motion to Dismiss Appeal* filed by HW on 8/23/23.

8. A *Motion to Suspend Briefing Pending Motion to Dismiss* was filed by multiple Defendants-Appellees,<sup>3</sup> which the Appellate Court has answered by denying both motions. ECF App. Nos. 22, 24, 35, 37.

9. On August 21, 2023, Graves electronically filed a Motion to Briefly Extend Deadline to File Opening Brief to permit the District Court to grant a 7-day extension to appeal and answer the outstanding motions so the parties may proceed on appeal. ECF App. No. 33. On August 22, 2023, the Appellate Court granted Graves a 30-day extension to file her opening brief, which is now due on September 30, 2023. ECF App. No. 34.

10. Expiration of the time limits in Rule 4 deprives the court of jurisdiction over the case. *Hensley v. Chesapeake O. Ry. Co.*, 651 F.2d 226, 228 (4th Cir. 1981); Fed. R. App. P. 26(b) (stating that court may not extend appeal period, except as provided in Rule 4).

11. The District Court may extend the appeal period if a party moves for an extension within thirty days of the expiration of the period under Rule 4(a) and if the party has shown excusable neglect or good cause warranting an extension. Fed. R. App. P. 4(a)(5)(A).

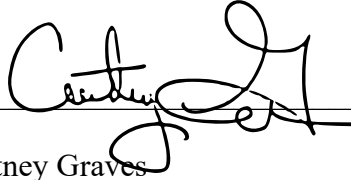
12. Taking into consideration the District Court's confusion about the period for appeal, amended appealable orders, former extension requests denied as moot, the limitations imposed on *pro se* litigants to meet strict deadlines, and the lack of funding options for *pro se* litigants who are not incarcerated or indigent, the District Court must grant the 7-day extension to prevent further prejudice in the interest of justice.

WHEREFORE, Graves respectfully requests this Court find good cause and excusable neglect exists to extend the period to file an appeal from July 17, 2023, to July 24, 2023, without further limiting the scope of appeal.

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<sup>3</sup> *Motion Suspend Briefing Pending Motion to Dismiss Appeal* filed by CEI on 8/11/23. *Motion Suspend Briefing Pending Motion to Dismiss Appeal* filed by HW on 8/23/23.

Respectfully submitted this 23<sup>rd</sup> day of August 2023.

A handwritten signature in black ink, appearing to read 'Courtney Graves', is written over a horizontal line.

Courtney Graves  
200 N. Washington Street, Unit 320547  
Alexandria, VA 22320  
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*Plaintiff-Appellant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and accurate copy of the foregoing *Pro Se Plaintiff-Appellant's Renewal Motion to Extend Period to File Appeal* was electronically filed via this Court's ECF to all counsels of record, and by first-class mail to the parties listed below on this 23<sup>rd</sup> day of August 2023.

Tomas Mansolva  
d/b/a TAM General Contracting, LLC  
8711 Victoria Road  
Springfield, VA 22151

Environmental Solutions, Inc.  
6114 Drum Point Road  
Deale, MD 20751

A handwritten signature in black ink, appearing to read 'Courtney Graves', is written over a horizontal line.

Courtney Graves  
200 N Washington Street, Unit 320547  
Alexandria, VA 22320  
Email: CourtneyGravesEsq@gmail.com  
Telephone: (571) 771-7818  
*Pro Se Plaintiff – Appellant*

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria DIVISION

Courtney Graves

Plaintiff(s),

v.

Civil Action Number: 1:21-CV-1367

Foulger-Pratt Companies, LLC, et al.

Defendant(s).

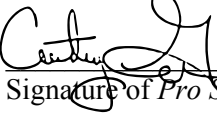
**LOCAL RULE 83.1(M) CERTIFICATION**

**I declare under penalty of perjury that:**

**No attorney has prepared, or assisted in the preparation of** Pro Se Plaintiff-Appellant's Renewal Motion to Extend Period for Filing Appeal .  
**(Title of Document)**

Courtney Graves

Name of *Pro Se* Party (Print or Type)



Signature of *Pro Se* Party

Executed on: August 23, 2023 (Date)

**OR**

**The following attorney(s) prepared or assisted me in preparation of** \_\_\_\_\_ .  
**(Title of Document)**

\_\_\_\_\_  
(Name of Attorney)

\_\_\_\_\_  
(Address of Attorney)

\_\_\_\_\_  
(Telephone Number of Attorney)

Prepared, or assisted in the preparation of, this document

\_\_\_\_\_  
(Name of *Pro Se* Party (Print or Type)

\_\_\_\_\_  
Signature of *Pro Se* Party

Executed on: \_\_\_\_\_ (Date)